IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 511 (MS) OF 2006

Nriya Gopal Das,
Chela Ram Manohar Das,
R/o Village-Joank, Patti-Talla Udaipur,
Tehsil-Kotdwar, District-Pauri Garhwal,
Through Power of Attorney, Prabhudas,
Aged about 62 years,
Chela, Swami Nriya Gopal Das,
R/o Village-Joank, Patti- Talla Udaipur,
Tehsil-Kotdwar, District- Pauri Garhwal.....Petitioner.

Versus

1. State of Uttaranchal, through Secretary, Revenue, Uttaranchal Shasan, Dehradun.
2. Commissioner, Garhwal Mandal, Pauri.
3. Collector, Pauri. .....Respondents

Mr. H.M Raturi, Advocate for the petitioner.
Learned Standing Counsel for the respondents.

Dated: 06.05.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition the petitioner has prayed for setting aside the order dated 9th September, 2004 and 12th December, 2005 passed by the respondents no. 2 and 3 respectively.

2. Briefly stated, a lease of land in Khasra No. 1020 situated in village-Joank under Government Grant Act was granted under Grant No. 33/2000-01 dated 24.12.2000 measuring area 0.018 Hectare and after grant of aforesaid lease, his name was recorded in the revenue record and since then the

petitioner is occupying the said lease after raising construction thereupon. A notice was issued on 28.01.2004 as to why the lease may not be cancelled.

3. In pursuance of the notice dated 28.01.2004, the petitioner submitted his reply that the lease was granted under the Government Grants Act in accordance with the rules and in pursuance thereof construction has been raised and fruits have also been planted. However, the Collector, Pauri has passed the order dated 9th September, 2004 cancelling the lease in Khasra No. 1020.

4. Aggrieved against the said order, the petitioner preferred an appeal before the Commissioner and the Commissioner confirmed the order passed by the Collector.

5. Petitioner has submitted that in paragraph 4 of the lease, he has raised the construction and the same has been cancelled without any rhyme and reasons and also on the principles of promissory estoppel, he is entitled for protection of his construction.

6. The parties have very fairly stated that a revision lies before the Chief Revenue Commissioner agaisnt the impugned order and as such the Chief Revenue Commissioner shall examine the aforesaid submission of the petitioner.

7. In view of the aforesaid, the petitioner is permitted to file a revision before the Chief Revenue, who shall decide the matter after hearing the petitioner after taking into consideration the observations mentioned above.

8. Parties are directed to maintain status quo till the pendency of the revision before the State Govt., State Government is directed to dispose of the same within a period of six months from the date of presentation of the certified cop of the order.

9. Writ petition is dismissed on the ground of alternative remedy. No order as to costs.

(Rajesh Tandon, J.)

06.05.2006
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